

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

**CURTIS LEE LEVY, JR.,
Petitioner,**

v.

Case No. 07C0182

**MATTHEW FRANKS
Respondent.**

DECISION AND ORDER

On February 26, 2007, Petitioner Curtis Lee Levy, Jr. filed this petition pursuant to 28 U.S.C. § 2254, asserting that his state court conviction and sentence were imposed in violation of the Constitution. Petitioner now moves for appointment of counsel and requests that I stay the briefing schedule while I consider his request.

Although civil litigants do not have a constitutional or statutory right to counsel, this court has the discretion to request attorneys to represent indigents in appropriate cases pursuant to 28 U.S.C. § 1915(e)(1). Luttrell v. Nickel, 129 F.3d 933, 936 (7th Cir.1997) (citing Zarnes v. Rhodes, 64 F.3d 285, 288 (7th Cir.1995)). "As a threshold matter, litigants must make a reasonable attempt to secure private counsel." Zarnes, 64 F.3d at 288. If a litigant has made no effort to secure counsel, the motion must ordinarily be denied outright. Id.

In this case, petitioner has not provided any indication that he has unsuccessfully attempted to obtain legal counsel on his own. Thus, petitioner's request for court-appointed counsel is premature. Accordingly, I will deny petitioner's motion without prejudice. Additionally, because petitioner has not filed a brief in support of his petition while awaiting

a decision on this issue, I will set a new briefing schedule.

Therefore,

IT IS ORDERED that petitioner's motion for appointment for appointment of counsel is **DENIED WITHOUT PREJUDICE**.

IT IS FURTHER ORDERED that petitioner's motion to stay the briefing schedule is **DENIED AS MOOT**.

FINALLY IT IS ORDERED that (1) petitioner shall have 45 days following the date of this order within which to file his brief in support of his petition; (2) respondent shall have 45 days following the filing of petitioner's initial brief within which to file a brief in opposition; and (3) petitioner shall have 30 days following the filing of respondent's opposition brief within which to file a reply brief, if any.

Dated at Milwaukee, Wisconsin, this 13 day of July, 2007.

/s_____
LYNN ADELMAN
District Judge